

**MINUTES
of the
FIFTH MEETING
of the
INDIAN AFFAIRS COMMITTEE**

**October 1-3, 2008
Crownpoint Chapter, New Mexico
Grants, New Mexico
Ramah Chapter, New Mexico**

The joint meeting of the Indian Affairs Committee and the Radioactive and Hazardous Materials Committee for the 2008 interim was called to order by Representative John A. Heaton, co-chair of the Radioactive and Hazardous Materials Committee, at 9:30 a.m. at the Navajo Technical College in Crownpoint, New Mexico.

Present

Rep. James Roger Madalena, Co-Chair (10/1 & 10/2)
Sen. John Pinto, Co-Chair
Rep. Ray Begaye
Sen. Dianna J. Duran
Sen. Lynda M. Lovejoy
Rep. Patricia A. Lundstrom (10/1 & 10/2)
Rep. John Pena
Sen. Lidio G. Rainaldi
Sen. Nancy Rodriguez (10/3)

Advisory Members

Sen. Joseph J. Carraro (10/2 & 10/3)
Rep. Ernest H. Chavez
Sen. Richard C. Martinez
Rep. Debbie A. Rodella
Rep. Nick L. Salazar
Sen. David Ulibarri

Also Present

Rep. Thomas A. Anderson
Rep. William J. Gray
Rep. John A. Heaton
Rep. W. Ken Martinez
Rep. Jim R. Trujillo
Rep. Peter Wirth

Absent

Sen. Rod Adair
Rep. Justine Fox-Young
Sen. John C. Ryan
Rep. Gloria C. Vaughn
Rep. W. C. "Dub" Williams

Sen. Timothy Z. Jennings
Rep. Ben Lujan
Sen. William E. Sharer

(Attendance dates are noted for those members not present for the entire meeting.)

Staff

Chase Van Gorder

Damian Lara

Mark Harben

Jeret Fleetwood

Guests

The guest list is in the meeting file.

Copies of all handouts and written testimony are in the meeting file.

Wednesday, October 1 — Navajo Technical College, Crownpoint**Welcome**

Elmer Guy, president of Navajo Technical College, welcomed the committees and provided background about Navajo Technical College. He said the college offers two-year degrees and trade certificates. Enrollment has increased by 10 percent from last year and the college now has a total enrollment of 500 students. There is a new building being constructed with a December completion date that will house the culinary center. President Guy said there is need for a new auditorium and the college has funds to start architectural planning. President Guy thanked committee members for the legislature's capital outlay support of Navajo Technical College.

Jamison DeVore, president of the Crownpoint Chapter of the Navajo Nation, welcomed the committees to Crownpoint. Crownpoint has felt the economic turmoil and needs help, especially with roads. A proposal for a hotel in Crownpoint is waiting for financial investors, and there is a need for a restaurant in town. He told the committees that Crownpoint was considered the uranium capital of the Navajo Nation, but the nation then discovered that it was a harmful industry. Mr. DeVore stated that infrastructure and the lack of electricity are the biggest problems in Crownpoint, especially as the cost of living goes up. The waterline project is about 48 percent complete. Mr. DeVore emphasized that Crownpoint has been very hard-hit by the economic slow down.

Alice W. Benally, Crownpoint delegate to the Navajo Nation Council, told the committees that uranium mining is good for the economy, but only for the short term. She stated that once a mine is exhausted, it leaves a legacy of detrimental results to the people, animals and land. The negative results of uranium mining lead to poor water sources and the need for expensive medical care. She said the people of Crownpoint struggle with health care costs and lack of services, so a further strain is extremely dangerous. There is also a need for help from the legislature to give the people running water and electricity. Ms. Benally said the chapter also needs help to improve and maintain infrastructure, along with economic development for the area. Ms. Benally also thanked committee members for their assistance with capital outlay appropriations to benefit the Crownpoint Chapter.

Introductory Comments

Mr. Van Gorder, staff attorney for the Legislative Council Service, said that the fact that this is a joint meeting of two interim committees is an indication of just how important the topic of uranium mining is. The topic has been discussed with great frequency, and there were several bills introduced during the 2008 legislative session last year dealing with uranium mining, past and future. The purpose of this joint meeting is to allow committee members to be brought up to date, and it will provide important facts and opinions about uranium mining from both the uranium industry and those who are concerned about the resumption of uranium mining and milling activities in New Mexico. There will be an opportunity for public comment, but members of the public need to sign up to speak. Mr. Van Gorder discussed the briefing book that has been compiled for and distributed to committee members.

Uranium Resources in New Mexico

Douglas M. Bland, special projects manager for the New Mexico Bureau of Geology and Mineral Resources (a division of New Mexico Tech), said he is not advocating for or against uranium mining, but is providing an objective view of the industry. Uranium is a very hot topic right now and uranium is in demand. Following the slides of his presentation, he said that in 2008 there were 439 operating nuclear reactors in the world, requiring an estimated 64,615 tons of uranium for fuel, about 1.6 times as much uranium as is actually being mined currently. The United States produces 4.2 percent of global uranium output. The deficit is made up by sales from surplus weapons stockpiles, especially from Russia. However, those supplies will most likely run out by 2012. He provided a map showing where in the United States uranium is being mined. Mr. Bland discussed the economic effects involved with uranium mining in terms of costs to extract and produce uranium compared to the value of uranium. Much like the petroleum industry, prices in the uranium industry are unpredictable, and the size of uranium deposits underground is unknown. Mr. Bland stated that technology has improved recently, making the extraction process more efficient, even eliminating in some cases the need for digging up the ground. He also examined the production levels of the United States in uranium mining and provided calculations of New Mexico's reserve value, estimated at \$20 billion to \$27 billion, using federal Energy Information Administration estimates.

Mr. Bland concluded that New Mexico's reserves of uranium are by no means exhausted. It is unknown exactly how much remains in New Mexico, and he provided estimates of 84 million pounds of U_3O_8 at \$30.00 per pound and 341 million pounds of U_3O_8 at \$50.00 per pound. Trends show that uranium will stay above \$50.00 per pound. Thus, Mr. Bland concluded that estimates of total production value of U_3O_8 are between \$20 billion and \$27 billion. Additional factors affecting the estimates of U_3O_8 reserves in New Mexico include geological studies, incomplete knowledge, changes in mining techniques, commodity prices, costs of permitting and reclamation requirements. The permitting processes have very large requirements on timing. Uranium has water and radioactive issues that will take many years to monitor. He noted that the regulatory scheme can be affected by the legislature.

Paul Robinson, research director of the Southwest Research and Information Center, said that the uranium reserves that exist today are more than adequate to fuel any conceivable expansion of nuclear power, and the nuclear fuel market will be more than adequately supplied in the period to the year 2020. He did say, however, that prospective uranium mines will be required beyond 2020, and market forces are bringing new uranium projects into production. Mr. Robinson provided a chart showing the world's top uranium producing countries in the world, with Australia, Kazakhstan and Canada holding the top three spots respectively (producing 46 percent of the world's total). Mr. Robinson explained that the life of a nuclear reactor is about 30 years and the United States has about 400 whose lives are to expire soon. Of those, only about half may be replaced, and replacement reactors will be much more efficient than the reactors they replace. Additionally, he stated that secondary sources of uranium, such as nuclear weapons and enriched uranium, are in plentiful supply. Primary suppliers of uranium that have prospective mining licenses have not begun new mining. He noted that only one prospective license has been applied for in New Mexico; all other applications are for exploration only. Mr. Robinson concluded that there is not a lot of room for new mining operations in New Mexico. The World Nuclear Association (WNA) has stated that stockpiles can last for 50 years, making it very difficult for new New Mexico mines to get started. The WNA states that existing mines have reserves adequate for the next 100 years. Thus, United States and New Mexico resources of uranium will not be competitive. BHP, the second-largest mining company in the world, is not moving on its New Mexico uranium land holdings. A lot of capital is needed, and very few have cash on hand to start production.

Rick Van Horn, executive vice president and chief operating officer of Uranium Resources, Inc., discussed the economic side of mining uranium. He said that 20 percent of the power in the United States comes from nuclear energy, with New Mexico obtaining 16 percent of its energy from nuclear power even though there is not a nuclear reactor in the state. The uranium prices have gone up tremendously in the last year, with \$64.00 per pound of U_3O_8 as the current price and about \$75.00 per pound as the long-term price. Mr. Van Horn stated that New Mexico does not have a mill in the state, and one mill would process all of the uranium ore produced in New Mexico. China is building a one-gigawatt coal power plant per week, but needs nuclear power because of the pollution issues associated with coal plants, as illustrated with the shutdown of plants during the Olympics. Mr. Van Horn asserted that there is a crisis looming regarding uranium production. He said that 92 percent of uranium comes from foreign sources, yet 20 percent of the United States electricity is from nuclear power, thus illustrating a foreign dependence that can threaten the energy situation in the United States. Mr. Van Horn said that this presents a national security issue.

Committee members asked each member of the panel if any member took any exception with what was presented by the others, focusing on the "neutral" scientific report given by Mr. Bland. Mr. Robinson stated that much of the presentation was agreeable; he has concerns with the use of the term "reserves". Mr. Van Horn said that he did not have any problems with the presentation, but did mention that as a company, URI feels it has a right to mine the uranium and that its holdings do not constitute "Indian land".

Upon a question as to why there is a change in the economic makeup of uranium costs, production and value, Mr. Bland responded that one factor is the creation of new uranium sources, such as weapons-grade uranium; he also mentioned the fact that governments do keep their uranium production statistics quiet.

Committee members asked about the cost of uranium production in New Mexico and the cutoff line for production costs to make New Mexico an economically unviable source for uranium. Mr. Van Horn said that it depends on the quality of the uranium reserve. Mr. Robinson stated that New Mexico faces a challenge because Australia, Canada and Kazakhstan have smaller production costs. New Mexico is striving to get the costs down to \$30.00 to \$40.00 per pound of U_3O_8 , whereas other countries already have attained those cost levels, along with large reserves.

Committee members inquired if the United States reactors are producing at their peak outputs. Mr. Bland stated they are producing at capacity. Committee members stated that the price of uranium must be going up and asked the panel members if they agreed. Mr. Bland said many people would agree, but some would not. Committee members stated concerns about the fluctuation of the price for uranium and asked about any concerns about lending practices to fund production, especially in the current economic crisis. Mr. Van Horn said that his company would not finance off the balance sheet.

Committee members warned that it is not right for a company to force its way back into a community to mine if that community is not interested and is angry about the legacy of that company. Cultural factors have to be considered in this situation. Committee members asked how long would it take to get another nuclear power plant in the United States. Mr. Bland stated that there has not been a new permit awarded in at least 30 years and getting a new one would take years. Committee members also noted that regulations are concerned with the safety and business practice of an industry and not the economic feasibility of engaging in business.

Public Comment

James Martinez of the Marquez Land Grant said he wants uranium mining to resume because it will be helpful and there are no other economic opportunities.

Gerald Brown of the Church Rock community said companies have to make a commitment financially, but cultural factors need to be taken into account as well. Thirteen Navajo communities have expressed opposition to the resumption of uranium mining. Alternative energy should also be explored, according to Mr. Brown.

Ruth Armijo of the Juan Tafoya Land Company stated that energy and economic development are important and uranium mining in this area will bring opportunity for both to grow. She added that nuclear energy is the most viable alternative to oil and coal.

Candace Head-Dylla of Milan thanked the committees for holding public comment. The country's current energy crisis is a result of short-sighted planning, she claimed. Ms. Head-Dylla stated that alternative energy sources are vital for the United States and the world, and nuclear power is not the only option. She noted that the water in the Milan area has been contaminated by past uranium mining and milling activities and regulations will not prevent it. She asked the committees to take the regulations seriously to protect New Mexico.

Benjamin House of the Eastern Navajo Allottees Association remarked that many Navajo are struggling financially. The blame of uranium for being negative is exaggerated, and, according to Mr. House, uranium is a viable option for economic development and revenue for the Navajo Nation.

John Boomer of the Bluewater Valley Downstream Alliance is against mining for public health and safety issues. He said that the economic risks are very high. Mr. Boomer said technology has not improved enough to ensure the safety of the public and the land.

Larry King of the Church Rock community believes that there is still a great deal of waste left over from previous uranium mines and mills and that the radiation levels are 10 times the levels permitted by the federal Environmental Protection Agency (EPA). The uranium mining companies have not had the necessary respect for the community's desires, according to Mr. King. He said that he has not seen one instance in which an aquifer has been restored; in-situ leaching (ISL) is an unproven mining technique.

Annie Sorrel stated that the community needs to take care of the youth, because the youth are falling prey to alcohol and do not have opportunities. The leaders in Window Rock are not doing enough, especially because the land of the Navajo Nation has so many resources. She said uranium mining can provide opportunity and the land can be protected at the same time.

Dalenno Long, president of the student body at Navajo Technical College, is concerned about the contamination of the community's water supply and is against uranium mining. She does not believe that the water can be restored and be safe from contamination. She expressed concern about the impact of contamination from uranium mining on human pregnancies.

Rita Capilan, a member of Eastern Diné Against Uranium Mining (ENDAUM), said that Uranium Resources, Inc., is not being honest about what can happen in areas of uranium mining and should not be allowed to do in New Mexico what it has done in Kingsville, Texas. The mining process cannot be safe and the water source will become contaminated, according to Ms. Capilan. She said the water needs to be protected.

Joni Fuenmoyor from the Western Agency of the Navajo Nation said there is a lot of waste resulting from the uranium mining industry. There are a thousand uranium mine sites that have not been cleaned up. Trust is an issue, according to Ms. Fuenmoyor, and many of the companies are not telling the truth. She stated that alternative energy technology needs to be

explored.

Uranium Mining and Milling Basics

Peter A. Scholle, state geologist and director of the New Mexico Bureau of Geology and Mineral Resources at New Mexico Tech, discussed uranium mining, milling and enrichment. He said that it is important to understand that most uranium deposits were formed by natural ground water transport of uranium in solution. Uranium is constantly being dissolved in oxidizing areas and being precipitated under reducing conditions. Dr. Scholle stated that uranium-mineralized areas naturally have substantial amounts of uranium, radium, other heavy metals and radon gas in the water, even in the absence of mining contamination. He discussed the ways uranium mining is conducted, including drilling for exploration, ISL, underground mining and open-pit mining. According to Dr. Scholle, milling probably is the single most problematic part of uranium operations because of the large volume of hazardous solid and liquid wastes, along with the resulting "footprint". Modern uranium mill waste ponds and piles, compared to old ones, have de-watered wastes, multiple impermeable liners and monitoring wells. There is, however, always some potential for leakage over long time periods, according to Dr. Scholle. He also explained the uranium enrichment process. Dr. Scholle said that questions need to be asked, including the desire to have nuclear power as a major source of energy, the ethical debate of having other countries participate in uranium mining activities that the United States will not conduct because of the dangers and, as oil and gas revenues may face a decline, whether a poor state like New Mexico can hold off on taking advantage of a rich mineral resource. He said the legislature needs to utilize research, both past and future, from universities and research laboratories, to ensure that there are sufficient regulations in place, to maintain risk-based management of sites and perhaps to establish a task force of specialists to report to the legislature.

Mr. Van Horn presented information regarding modern techniques in uranium mining. Mr. Van Horn outlined the safety of modern conventional uranium mining. He said the potential benefits of uranium mining mean nothing without safe mining practices, and success for the New Mexico uranium industry is contingent on safety. Compared to the past, there are more stringent regulatory standards, additional environmental safeguards and new employee safety measures. Mr. Van Horn described ISL uranium mining, stating it is noninvasive where uranium is extracted from sandstone aquifers by reversing the natural process that deposited it. He said that because aquifers that have uranium deposits have radioactive ground water regardless of any mining history, that ground water is only suitable for industrial purposes.

Michael W. Capitan of ENDAUM gave a presentation to the committees about his experience with ISL mining. Mr. Capitan said that injecting oxygen and sodium bicarbonate, as is done with in-situ recovery, increases the uranium level in the ground water by up to 100,000 times the previous level. He used the example of the Mobil Section 9 pilot project, which involved a 40-acre plot with 13 injection-production wells. Mr. Capitan said that the leaching for the in-situ recovery lasted only 10 months, but restoration lasted for over six years and the level of contamination in the ground water was never restored to pre-mining levels. The aquifer was flushed 17 times and still did not get fully cleaned. He warned that if this smaller site proved so

difficult, if not impossible, to restore, other larger projects would be even more futile. Mr. Capitan stressed the importance of protecting drinking water and explained that the Navajo Nation banned uranium mining in 2005. He said the New Mexico Legislature could help by prohibiting ISL mining in drinking water aquifers. The legislature should also make companies provide evidence that five in-situ projects prevented leaks of mining fluid and successfully restored ground water and should establish buffer zones around all uranium mining and processing operations so they are never built close to where people live.

Milton Head of the Bluewater Valley Downstream Alliance gave a presentation regarding the environmental effects on ground water resulting from uranium mining and milling activities. He said that there are 60 sections in the community that have contaminated ground water ranging from north of Milan to Ambrosia Lake. Mr. Head also said that 1,203,200 acre-feet of water for domestic and agricultural use was lost due to that contamination. He said that there were no background water levels set before operations were started, which makes it very difficult to monitor new levels of contamination. Mr. Head said that to help fix the problem the Homestake Superfund site needs to be expanded to include the upstream polluters, including the Anaconda mill site and Ambrosia Lake mines and mills. He added that he feels that the New Mexico Department of Environment needs to have more funding and that the department and the EPA should have field offices in Grants, along with a more intense and efficient monitoring system. Mr. Head stated that sites need to be cleaned up before any more mining can be started again.

Committee members asked if there are any major issues with the state geologist's presentation. Mr. Van Horn said that the state geologist claimed that no ISL site has been cleaned up, but that is not true. Mr. Van Horn also observed that Dr. Scholle said there were problems with water disposal that Mr. Van Horn does not agree with. He said that a brine or sludge would be made to make disposal safer. Mr. Head and Mr. Capitan said they feel that contamination is riskier than portrayed by the state geologist.

Committee members asked for clarification on the issue before the United States Tenth Circuit Court. The issue was that the EPA provided a permit based on a decision that was proposed by the company HRI for an ISL site that was surrounded by Indian country and thus was Indian Country. An appeal was submitted on the permit and on the issue of jurisdiction by the EPA. Mr. Van Horn said the issue is related to the status of the land being Indian country or the state's land. The EPA said that it was taking the jurisdiction (calling it Indian country), and Mr. Van Horn is fighting that decision.

Committee members asked if the mining would be above or below the aquifer. Mr. Capitan said that it would be done on the same level. Water rights were also brought up, as were concerns about adjudicated water rights.

Inventory, Evaluation, Environmental Impact and Cleanup Status on Uranium Mining/Milling Sites

Bill Brancard, director of the Mining and Minerals Division of the Energy, Minerals and Natural Resources Department, gave a progress report on a survey of abandoned uranium mines. He outlined project phases, including data gathering, field surveys, site prioritization, leveraging resources and cleanup. Mr. Brancard said a database of abandoned mines has been compiled. There are 259 abandoned uranium mines (AUM) with a record of production, of which 140 mines have no record of reclamation. There are also 450 disturbed areas with no record of production. According to Mr. Brancard, the New Mexico Abandoned Mine Land (AML) program safeguarded 15 abandoned mines in the early 1990s; mines were surveyed to assess the need for maintenance and to identify proximity to waste piles. Regarding prioritization, Mr. Brancard said the following factors were included in the formula: radiological hazards, physical safety hazards, proximity to homes, proximity to domestic wells and proximity to water drainages. In the future, there needs to be coordination with federal, state and tribal agencies, further site assessments, prioritization of sites, establishment of reclamation standards and criteria, public participation and ensuring that there are funding sources for cleanup work, including federal, state, tribal and private sources.

Rich Bush, project manager for the Office of Legacy Management of the United States Department of Energy (DOE), gave a presentation to the committees dealing with effectively and efficiently managing the DOE legacy responsibilities. He said that his office's mission is to manage the DOE's post-closure responsibilities and ensure the future protection of human health and the environment. The DOE's goals include: to protect human health and the environment through effective and efficient long-term surveillance and maintenance; to preserve, protect and make accessible legacy records and information; to support an effective and efficient work force structured to accomplish DOE missions and ensure contractor worker pension and medical benefits; to manage legacy land and assets, emphasizing protective real and personal property reuse and disposition; and to improve program effectiveness through sound management. Mr. Bush discussed New Mexico sites such as Ambrosia Lake, Bluewater, L-Bar and Shiprock.

Scott Stollman, senior policy advisor for EPA Region 9, said that the EPA under Region 9 has spent \$6 million dealing with uranium contamination issues and has a staff of 30 people (mostly part time). He also stated that the EPA is concerned with the construction of buildings using contaminated materials. Andrew Bain with the EPA Superfund program presented the EPA's work on uranium contamination cleanup to the committees. He showed the committees an atlas that the EPA put together. He said that the EPA is evaluating homes to see if they have been made with contaminated materials, beginning work in August 2008 in the Red Valley area. The EPA has taken down six homes thus far and, as part of the program provided part-time housing for those affected. There is also a program to assess water sources for contamination and the EPA and Navajo EPA are working together on this issue. Mr. Bain said the EPA has tested 50 unregulated water sources, finding that 22 sources exceeded standards for radionuclides and 21 of these were being used for human consumption. He said the EPA and Navajo EPA are

also assessing abandoned uranium mines and will work together to develop a strategy for each mine.

Teddy Nez, resident of the Red Water Pond Road area, gave a presentation on behalf of the residents living next to the Northeast Church Rock mine and the Church Rock uranium mill and tailings disposal area. Mr. Nez is against uranium mining and stated long-term goals. He said that the Red Water Pond Road community wants long-term protection. This means protection and restoration of human health, air, land, vegetation and traditional cultural practices; removal of the wastes at the mine site; the return of traditional lands to the Navajo Nation; improvement of homes, grazing lands and roads; and ensuring safety for new development. The Coyote Canyon Chapter and Church Rock Chapter of the Navajo Nation also have a resolution requesting a new livestock water well to replace 14T-586 (Friendship I), which is contaminated. Mr. Nez proposed recommendations, including: the support of congressional hearings on the health and environmental impacts of uranium contamination in New Mexico and Navajo Nation; enforcement of the principle that the "polluter pays", holding companies such as United Nuclear accountable for the harm and suffering they have caused for communities; protection of communities by prohibiting uranium operations near where people live; and enacting more stringent regulations that prevent pollution.

Randy Foote, New Mexico operations director for URI, said the EPA document he was discussing was not a study of abandoned or former uranium mines. He said that the study was geared toward finding the worst sites in terms of contamination. Mr. Foote stated that the way the study was approached results in a misleading report. He stated that the industry does support the cleanup of sites.

Committee members expressed concerns about water quality and how it is studied. Mr. Bush responded that water quality is not tested regularly, if at all, if it is not part of a community drinking supply. Many of the wells are not meant for human drinking water and only for agricultural use. Committee members also asked for calcification of the identified 243 wells and the significance of color coding.

Following the discussion regarding the status of former uranium mining and milling sites, Representative Heaton recessed the meeting at 5:52 p.m.

Thursday, October 2 — Cibola County Convention Center, Grants

The joint meeting of the Indian Affairs Committee and the Radioactive and Hazardous Materials Committee for the 2008 interim was called back into session by Representative Heaton on Thursday, October 2, 2008, at 9:05 a.m. at the Cibola County Convention Center in Grants, New Mexico.

Recent Judicial/Legislative/Regulatory Developments

Marcy Leavitt, director of the Water and Waste Management Division of the Department of Environment, gave a presentation to the committees regarding water quality and uranium mining. She stated that uranium mines need a "toolbox", including discharge permits, underground injection control permits, closure plans, financial assurance and abatement plans. Ms. Leavitt provided a chart discussing the types of permits required for exploration, conventional mining and milling and ISL recovery. She also discussed the current uranium mine status. Currently, there are no mining and milling discharges, but there are two active permits at the Mt. Taylor and Rio Algom mines. There are no ISL permit applications in process. According to Ms. Leavitt, future permit considerations would require protection of drinking water aquifers, background water quality studies, aquifer restoration upon completion and financial assurance. She also presented current water pollution abatement activities.

Mr. Brancard discussed permitting under his agency. He said that his agency's focus is on the surface and cleanup of contamination. There is cooperation with state agencies to address the issues more comprehensively. Mr. Brancard said there have been seven permits issued, including two that are pending, for uranium exploration. The applications are for sites ranging from Church Rock west to Magdalena, but the main area has been just to the west of Grants. Many permits have been denied or redrawn. He said there are two types of permits issued: minimal impact, which are more streamlined and do not require public disclosure; and major exploration activity permits requiring notice and public hearings. Some of the denied permits have been rejected because they do not qualify for the minimal impact standards. Another issue for denied permits is when access to the sites conflicts with tribal lands. There are concerns about illegal drilling, according to Mr. Brancard. Some issues with mining need to be addressed, including how to plug abandoned mine holes, evaluation of minimal impact versus major exploration standards (use of a drill hole number) and required financial assurance. The trends of the industry have been to have fewer applications for sites that are intended to be sold off and more applications for outfits that intend to actually do the mining themselves once the application is approved. In other words, the companies that are more serious about mining are the ones applying for permits.

Jan Biella, deputy historic preservation officer for the Historic Preservation Division of the Cultural Affairs Department (CAD), discussed cultural resources and proposed uranium development in New Mexico. She examined the legal protections for cultural resources in New Mexico. She said the CAD is tasked with protecting, preserving and enhancing public appreciation of New Mexico's diverse cultural heritage and resources. Ms. Biella outlined cultural resources and cultural properties designations, including state register, national register and traditional cultural property (TCP). Mt. Taylor site has two different TCPs. She then explained to the committees what these designations mean for uranium drilling, exploration and other development projects in Cibola County and the rest of New Mexico.

Committee members asked Mr. Brancard for a status update on the abandoned mines project. Mr. Brancard said the project is essentially complete, including all 21 sites. When

committee members asked if land grants are treated differently in terms of TCP, Ms. Biella said there would not be any effect or difference if the area is a land grant. Committee members inquired about any granted permits for new mines. Mr. Brancard said large mines have not been permitted because they have not had applications.

Public Comment

Les Gaynes told the committees he would like them to make New Mexico a pro-business state. As discussed with the legacy issues, New Mexico needs to produce a clean, safe, quality product. The poorer parts of the state need to be taken care of. He also said that some of the interpretations presented by the panels are different than those of other people. Mr. Gaynes believes that the uranium mining industry can function productively and safely here.

Ava Peets said the uranium companies have always been of service to communities. She provided a list of "good deeds" and services provided by those companies. The mining companies have paid good salaries and provided jobs.

Juan Velasquez explained the difference between uranium mines and mills. The mills are being reclaimed by the original owners. He said the idea that uranium mining companies are just cutting and running is not true. The mill sites are not being cleaned up by New Mexico, and there is not any funding from the state to do it. Mr. Velasquez said that there needs to be more scientific data and specifics.

Paulina Martinez of the Marquez Land Grant is working in a mentoring program and would like to become a mining engineer. She is in favor of uranium mining. Her father, James Martinez, said there is more uranium mining left to do and New Mexico needs the economic boost from uranium mining.

Mr. House said that the uranium mining industry needs to be allowed to start mining again. Those against it say the water contaminated is drinking water, but Mr. House claims that water is not actually for drinking. There needs to be economic development and uranium mining will help that.

Mr. Nez redirected comments from yesterday's meeting and indicated his belief that the cost of cleanup of uranium mining sites will fall upon the state.

Ms. Head-Dylla said that New Mexico needs to be a pro-business state, but the big companies are not being held accountable and have gotten away without bearing the cost of cleanup. Uranium mining and milling activities cause issues for private property values because no one will want to live near the mining sites. The water supply in the Milan area is threatened and the impact is unknown.

Dr. Jana Gunnell said she works with health clinics in McKinley and Cibola counties. She is opposed to the resumption of uranium mining until the negative legacies have been taken

care of. Water is the most significant and important natural resource in New Mexico. Water is threatened by uranium mining, and the potential (and already existing) contamination of water is too dangerous to allow uranium mining to be resumed.

Sandy Brewer of the Bluewater Valley Downstream Alliance said that 500 wells have been tested in the area and many of them are "not fit for human consumption". The negative effects of mining uranium have led to property values being at rock-bottom levels. Uranium is not a terrible thing and she is not against it, but the legacy problems have to be cleaned up and the mining have to be done cleanly.

Art Gebeau worked for Kerr McGee uranium mining as its general manager. He said he is not against uranium mining, but he insists that the waste must be cleaned up. The contamination from the uranium mines and mills has grown incredibly since the 1970s. He said half or more of the well samplings have been conducted in the last year and a half. There needs to be more done.

Sofia Martinez said there is a conflict between the health of the residents and the profit of business when it comes to uranium mining. She mentioned that what has been going on is at least environmental injustice, if not environmental racism. Ms. Martinez said that the situation needs to be viewed with cautionary discretion.

Johnie Head said the area has been waiting for 30 years to get clean water. Residents were promised to have clean water in 10 years, but that was 30 years ago and nothing has been done. The Department of Environment is terribly underfunded, and the water problems have not been fixed. A recent health study has been conducted and designated this area as a hazardous health area.

Star Gonzalez with the Cibola Economic Foundation said it is important to examine both sides. The global economy affects the local area, and mining is a huge industry that the Grants area can take advantage of. The legacy issues will be addressed, and the area needs to move forward and bring back uranium mining.

Mr. Van Horn stated that uranium mining can be cleaned up. He claimed that there have been instances of cleaning in-situ mining sites. Mr. Van Horn said that the uranium industry is committed to working with the community and legislature to clean up the legacy sites.

State Legislative Initiatives

Chris Shuey, director of the Uranium Impact Assessment Program at the Southwest Research and Information Center, presented uranium legacy concerns and concerns regarding potential new uranium development. He said that he has worked with and for residents of communities in New Mexico, the Navajo Nation and around the world who have been affected by mining and milling projects. Mr. Shuey stated that every possible effort must be made to find the parties responsible for leaving abandoned mines unreclaimed or poorly reclaimed. The New

Mexico Legislature should engage the federal government in a discussion of the federal government's responsibility for paying for reclamation of mines that were developed solely for the purpose of supplying uranium for the nuclear weapons program. He added that the legislature should help define the extent of damage to the state's water resources from historic uranium mining and milling discharge by funding regional water quality studies. According to Mr. Shuey, affected communities have repeatedly requested assistance to fund, design and implement health studies among local residents, but there have been very few studies conducted. He presented recommendations to the committee, including: to explore the idea of having a surcharge or fee on the generation of wastes from new uranium mining and milling activities, and to have the state conduct a comprehensive review of existing state and federal regulations applicable to uranium mining and milling.

Mr. Velasquez said the industry will not be initiating any specific legislative package. Mr. Velasquez said he feels the industry is willing to take on its side of the legacy issue.

Mark Pelizza, vice president for URI, stated that the process of starting the mining up again and the gearing up of dealing with the legacy issue will take time. He stated that the coal model for taxation, cleanup and responsibility is useful for application toward the uranium mining industry.

Committee members expressed the sentiment that just like the oil industry, the uranium industry must be responsible for cleaning up abandoned mining sites and is responsible for assurance regarding legacy cleanup. One way for funding is approaching Congress as suggested by Mr. Pelizza. Representative Heaton suggested writing a letter to Senator Jeff Bingaman to request funding for cleaning up the legacy problems. He proposed that the legislature send a delegation to Washington to make the letter more meaningful. Representative Lundstrom agreed with the idea of going to Washington, but there needs to be a solid and specific legislative package.

Upon a motion by Senator Ulibarri, seconded by Representative Madalena, the committee voted without opposition to write a letter to Senator Bingaman requesting increased federal financial assistance for the cleanup of abandoned and unreclaimed uranium mining sites. Staff will draft the letter and finalize the text after approval by the committee co-chairs. Upon a motion by Representative Lundstrom, seconded by Representative Begaye, the committee voted without opposition to form a subcommittee to look into ways in which the New Mexico Mining Act and other state statutes and rules may need to be amended to provide adequate environmental protection in view of modern uranium mining techniques.

Following the discussion of state legislative initiatives, Representative Heaton recessed the meeting at 4:00 p.m.

Friday, October 3 — Ramah Chapter, Navajo Nation

The fifth meeting of the Indian Affairs Committee for the 2008 interim was called back into session by Senator Pinto, co-chair, on Friday, October 3, 2008, at 9:25 a.m. at the chapter house of the Ramah Chapter of the Navajo Nation.

Ramah Chapter, Navajo Nation — Status Update

Leo L. Pino, president of the Ramah Chapter of the Navajo Nation, presented a status update on the chapter. He said that 35 families have received power line service with state funding. Also, a tractor and backhoe were purchased with state funds. He said that with the help of Senator Rainaldi, a \$7 million GRIP project is now underway to improve the road to the community. President Pino stated that the road project needs to be expanded even more and the chapter would go to the legislature for more funding again. He said that the money allocated to the chapter has been utilized the best that it could and none of the funds will revert back. The chapter has a lot of projects that it would like to pursue. Paulson Chaco, director of community planning, commented on the road projects that are already underway.

Cecil Frank Eriacho, delegate to the Navajo Nation Council from Ramah, thanked the committee for all the help the legislature has given the chapter. He said the chapter is working to get things done within the policy set forth by the Navajo Nation and wants to continue cooperation with the State of New Mexico. Mr. Eriacho said that he hopes things will progress in the future, and he wants to continue advocating to resolve the chapter's concerns.

Bennie Cohoe, executive director of the Ramah Navajo School Board, Inc. (RNSB), thanked the committee for coming to the chapter. He said that the RNSB's mission is to provide a culturally viable educational foundation that sustains a healthy lifestyle and provides economic, technological and infrastructure development that promotes and preserves the autonomy of the Ramah Band of the Navajo Nation.

Committee members inquired if there were any problems getting money from Cibola County. Mr. Cohoe stated that the Navajo Nation always dips into its own funds for cost issues. President Pino said there are a lot of problems getting the funds from the state and the Navajo Nation, but the chapter is working on that process. The federal government funding is different and less of a problem. Secretary of Indian Affairs Alvin Warren stated that yesterday he signed a master intergovernmental agreement with President Joe Shirley of the Navajo Nation. What the agreement means is that there is now a mechanism to get funds to the chapters put into one package instead of on an individual basis. It will expedite fund disbursement from the state and, if successful, will provide a model for funding from the Department of Transportation and the Aging and Long-Term Services Department. Secretary Warren told President Pino that the chapter will receive a \$50,000 package for planning of road construction.

Project ECHO — Update

Dr. Sanjeev Arora, director of Project ECHO for the Health Sciences Center at the University of New Mexico (UNM), gave a presentation to the committee about Project ECHO. He said the mission of Project ECHO is to develop the capacity to treat chronic, common and complex diseases in rural and underserved areas safely and effectively and to monitor outcomes. Dr. Arora gave background information on hepatitis C and discussed how it affects New Mexico. He said that there are approximately 28,000 cases in the state and less than five percent have been treated; without treatment, 8,000 patients will develop cirrhosis between 2010-2015, resulting in several thousand deaths. There are about 2,300 prisoners diagnosed with hepatitis C within the corrections system. New Mexico has the highest rate of chronic liver disease/cirrhosis deaths in the nation, according to Dr. Arora, and 32 of 33 New Mexico counties are listed as medically underserved areas (MUAs); 14 counties are designated as health professional shortage areas (HPSAs). He said goals for Project ECHO include development of the capacity to treat hepatitis C in all areas of New Mexico safely and effectively, to monitor outcomes and to develop a model to treat complex diseases in rural locations and developing countries. The partners involved with the project are the UNM School of Medicine, Telemedicine and CME, the Corrections Department, the Department of Health, the Indian Health Service, community providers with interest in hepatitis C and the Primary Care Association. Dr. Arora said that Project ECHO's use of telemedicine, best practice protocols and co-management of patients with case-based learning (the ECHO model) is a robust method to treat chronic, common and complex diseases safely and effectively in rural and underserved areas and to monitor outcomes.

Native American Veterans' State Income Tax Settlement — Status Update

John Garcia, secretary of veterans' services, and Rick Homans, secretary of taxation and revenue, discussed the Native American Veterans' State Income Tax Settlement. In the presentation, the secretaries discussed Senate Bill 574, which was introduced by Senator Pinto and passed in 2008. The bill creates the Native American Veterans' Income Tax Settlement Fund, from which the secretary of veterans' services is directed "to make settlement payments to Native American veterans who had state personal income taxes improperly withheld from their military pay". The secretaries stated that the impetus for the bill was that New Mexico income tax was withheld from Native Americans' military wages even though those wages may have been exempt from New Mexico income tax. The withholding of income taxes by the federal Department of Defense began after July 1, 1977, the date New Mexico first entered into a withholding agreement with the federal Department of the Treasury that covered the Department of Defense. The reason the withholding occurred was because, until recently, there were no clear instructions available to Native Americans in the military describing how to avoid the withholding by stating the exemption on a W-4 or by other means. They said Native Americans who did have New Mexico income taxes withheld from their exempt military pay could have obtained a refund of those withheld taxes by filing a New Mexico income tax return within the prescribed three-year period.

According to the secretaries, until settlement claims are filed, it is impossible to know the precise number of Native American veterans who were residents on tribal lands during their

period of military service after July 1, 1977 and before 2004; how much was withheld from their exempt military pay; or how many that had pay improperly withheld filed a New Mexico income tax return and received a refund. They estimate that as many as 7,651 living Native American veterans may have had New Mexico income tax improperly withheld between July 1, 1977 and 2003. Using a variety of data sources and alternative assumptions, they estimate that the total amount of this withholding was likely less than \$2 million. The secretaries said they have developed a draft set of rules for administering the Native American Veterans' Income Tax Settlement Fund and for making payments from it. The guiding principle of these draft rules is that any settlement payments can and should be made in the fairest way possible. They plan to enter into a formal government-to-government consultation with tribes on these rules before they are finalized as regulation. Once the rules are finalized, they plan to begin accepting claims for settlement payments. Secretaries Garcia and Homans added that there are several issues related to the workings of the fund that may need to be addressed in future legislation, including an appropriation to the fund to cover the cost of making and administering payments and the question of paying interest on improperly withheld funds.

Adjournment

There being no further business before the committee, the fifth meeting of the Indian Affairs Committee for the 2008 interim was adjourned at 1:20 p.m.